

VERMONT ENVIRONMENTAL BOARD  
10 V.S.A. Chapter 151

RE: Heritage Group, Inc. and  
H. Warren Lyon by  
Gordon C. Gebauer, Esq.  
Saxer, Anderson & Wolinsky  
P.O. Box 1505  
Burlington, VT 05402-1505

MEMORANDUM OF DECISION  
Application #4C0730-EB

On June 1, 1988, Heritage Group, Inc. and H. Warren Lyon (Applicants) filed an appeal with the Environmental Board from a decision of the District #4 Environmental Commission denying an application for a 72-unit housing project for senior citizens with a two-story commercial building located off Route 2 in Williston. The Applicants had requested partial findings under Criteria 9 and 10 of 10 V.S.A. § 6086(a), pursuant to 10 V.S.A. § 6086(b).

On June 28, Environmental Board Chairman Leonard U. Wilson convened a prehearing conference in Essex Junction. The only parties who appeared at the prehearing conference were the Applicants and the Vermont Adjutant General.

On August 2, 1988, an Administrative Hearing Panel of the Environmental Board convened a public hearing in Williston and heard testimony from the Applicant and the Adjutant General with regard to Criteria 9(A), 9(K), and 10. The Panel recessed the hearing pending the submission of proposed findings by the parties and the preparation of a proposed decision by the Panel. On August 18, the Applicants filed proposed findings.

The Williston Board of Selectmen and the Williston Planning Commission were sent copies of the notice for the prehearing conference and the hearing. They were also sent the Prehearing Conference Report and Order. The Applicants' attorney sent them the Prefiled Testimony of Butch Crandall, the Applicants' Memorandum on Scope of Review on Appeal, and the Applicants' Proposed Findings of Fact. Neither the Town nor the Planning Commission appeared at the hearing.

On August 26, the Board received a letter from Richard Thomas of the Williston Board of Selectmen objecting to some of the Applicants' proposed findings and requesting that the Board reopen the hearing so that the Town of Williston may present testimony on Criteria 9(K) and 10. The Selectmen believe that a slide presentation on the visual impact of the project developed by the Town would be helpful to the Board in making its decision regarding this application. **Mr. Thomas states that** the Selectmen have not participated in the proceedings "primarily due to personal vacations and staff availability."

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Docket 394.  
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On September 9, the Board received a letter from the Applicants objecting to the Town's request to reopen the hearings. The Applicants argue that although the Town of Williston received notice and the opportunity to participate at both the District and Board proceedings, the Town did not appear at any of the previous hearings. The Applicants believe that it would be unfair to delay the decision by reopening the hearing when the Town has had ample opportunity to participate. Furthermore, the Applicants argue, the issues raised by the Town with respect to the visual impact of the project will be fully reviewed by the Commission under Criterion 8.

On September 21, the Board received a copy of a letter from Howard R. Buxton on behalf of the Adjutant General of Vermont to the Heritage Group withdrawing the National Guard's offer to move the location of its motor pool parking area. The Board will accept this letter into the record unless the Applicants object, in which case the Panel will reconvene for the purpose of allowing questioning of and response to the position of the Adjutant General.

#### Decision

As a statutory party, the Town was sent copies of all notices, correspondence, and other documents. The Board agrees with the Applicants' position that the Town has had ample opportunity to participate and that it would unfairly delay the decision to reopen the hearing at this time. However, as a statutory party, the Town may participate at any stage of the proceedings. Therefore, the Town will receive a copy of the proposed decision and will be permitted to file written comments and request oral argument before the full Board.

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ORDER

1. The Town of Williston's request to reopen the hearing is denied.
2. The Applicants shall file any response to the Adjutant General's letter regarding the motor pool parking area on or before- October 21, 1988.

Dated at Montpelier, Vermont this 11th day of October, 1988.

ENVIRONMENTAL BOARD



Leonard U. Wilson, Chairman  
Lawrence H. Bruce, Jr.  
Jan S. Eastman  
Elizabeth Courtney  
Arthur Gibb  
Samuel Lloyd

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